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EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT PAPER NUMBER

3692

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/541,197

Applicant(s)

GOLDEN, JEROME S.

Examiner

Siegfried E. Chencinski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2007 & 28 August 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 55-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. The claims are objected to because the lines are crowded too closely together, making reading difficult. Substitute claims with lines one and one-half or double spaced on good quality paper are required. See 37 CFR 1.52(b).

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 55, 59, 68, 69, 75, 79 and 80 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Tarbox (US Patent 6,154,732) in view of Ryan et al. (US Patent 6,205,434 B1, hereafter Ryan), Barron's Dictionary of Insurance Terms, 3<sup>rd</sup> Ed., Barron's Dictionary of Finance and Investment Terms, Fifth Ed., 1995 (hereafter Barron's), King et al. (US Patent 5,704,045, hereafter King), El-Kadi et al. (US Patent 6,014,642, hereafter El-Kadi), Golden (US patent 5,933,815) Schirripa (US Patent 6,275,807 B1) and Henderson et al. (US PreGrant Publication 2001/0014873 A1, hereafter Henderson).

**Re. Claims 55, 59, 68, 69, 75, 79 and 80,** Tarbox discloses a system and method performed at least partially by a programmed computer for planning for, implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person, the method comprising:

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- Providing retirement investment allocation advice, using related asset allocation analytical models for retirement investment vehicles, and allocating investment assets (Col. 1, ll. 61-64; Col. 2, ll. 35, 58-64).
- Calculating investment recommendations, including calculations made in response to client what-if scenario questions (Col. 10, ll. 35-36);
- Calculating and transmitting the recommendation (Col. 10, ll. 15-20);
- Altering the allocation of funds in a retirement program in accordance with the asset owner's instructions (Col. 10, ll. 24-25).
- An asset allocation program which includes a guaranteed investment contract option (Col. 3, ll. 54-58; Col. 4, ll. 60-65).
- Investment for retirement needs through the full extent of a client's life (Col. 3, l. 54 – Col. 4, l. 18).
- Computer system hardware, including a server, processor, storage, controller (obviously contained since it is a necessary component for making the system work), and other computer hardware and networking components, and computer software/programs to implement the methods steps (Col. 11, l. 19 – Col. 12, l. 56).
- altering the allocation of funds towards achieving the recalculated total current values and the recalculated target benefit payment values in accordance with at least a second set of instructions including at least information specified by the person based on the at least one change to the retirement benefit program (Tarbox, Col. 10, ll. 24-25. The "towards" component is the intended component which is the obvious motivation of the altering and which is also disclosed by Tarbox).

Tarbox does not explicitly disclose:

- Conversion of investments, assets and contracts
- Purchasing of fractions of investments, assets and contracts, including gradual purchases over time.
- Guaranteed life-dependent financial contracts or instruments.

- Recalculations as they apply to the advisor's service activities for the client.
- Financial and statistical information related to future market performance, inflation and interest rates.
- A controller adapted for performing operations of an integrated computer system such as being operatively coupled to storage means for storing information and to calculate and recalculate various values and valuations.

However, financial asset conversions are well known and documented in prior Office Actions, such as in the most recent Office Action dated September 16, 2004 (p. 7, I. 24 – p. 8, I. 18). Such conversion is an old practice in the art, practiced by thousands of licensed CLU's and other practitioners of the art at the time of Applicant's invention.

Allowing a remainder of the funds corresponding to the preexisting asset vehicle to generate investment returns is the non-action or inactive component of the invention:

Conversion of investments, assets and contracts are disclosed by Barron's (Finance – p.119; Insurance – pp. 103-104) and by King (Col. 14, II. 25, 34, 22-41). Golden discloses guaranteed life-dependent financial contracts or instruments (Col. 2, II. 24-40, 58-62).

El Kadi discloses the purchasing of fractions of investments, assets and contracts, including gradual purchases over time (Col. 1, II. 16-17, Col. 5, II. 60-62).

Schirripa discloses recalculations as they apply to the advisor's service activities for the client (Col. 16, II. 54-61).

Henderson discloses financial and statistical information related to future market performance, inflation and interest rates ([0008, 0010, 0011, 0014, 0021, 0030-0052).

Ryan discloses the use of a controller in a retirement planning and benefits management context adapted for performing operations of an integrated computer system such as being operatively coupled to storage means for storing information and to calculate and recalculate various values and valuations (Abstract, II. 6-8, 11-13, 20-25; Col. 3, I. 56 - Col. 4, I. 43. For example, Col. 4, II. 12-16 & ff. includes calculations by the controller, ... for example values ... such as death benefit proceeds or premium reinvestment amounts ... Recalculations are implicit.).

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The first set of allocation instructions including at least information specified by the person would have been obvious since only the legal owner or his designee(s) with his power of attorney could legally authorize such action;

re. limitation (a) "allocating at selected intervals of an allocation period in accordance with at least a first set of instructions an allocation of a portion of funds corresponding to at least one asset vehicle, containing one or more personal financial assets owned by the person, towards purchasing one or more fractions of at least a first guaranteed life-dependent retirement benefit that provides one or more income benefit payments to the person to gradually purchase the at least first retirement benefit during the allocation period" is essentially a conversion program from one or more assets to another asset.

It would have been obvious for a retirement plan buyer to have wanted to know at any time during the period of his initial inquiries and negotiations with the current practitioner through the first step of conversion until his market based assets were fully converted to life-dependent retirement benefit plans as to what the current value of his current assets was and what the cost of immediate payment of a complete retirement benefit would be if fully paid immediately. Numerous other what-if questions by the asset owner would also have been obvious to expect from the asset owner client or conversion prospect, perhaps for the rest of his coherent life.

Re. limitations (b), (c) and (d), calculating and recalculating current values and future values for any number of future intervals and contractual assumptions and contingencies being considered has been well known in the art, including actuarial valuation of the benefit and a market value of the asset vehicle. This would include calculations of accelerations being considered, which could involve a shorter time period, fewer number of payments, or complete acceleration to one current payment in full to purchase the entire contract or investment vehicle or full amount being contemplated previously or currently. Recalculations have been an obvious and common component service activity performed for prospective and existing retirement investment planning clients by the army of ordinary practitioners such as investment advisors, CLU's and personal financial planners, using every legally approved

investment contract and forecasting tweak available to a CLU and/or other licensed financial planner and advisor through his licensed and certified training, from his underwriting companies and through his ongoing updates of his professional knowledge base.

It would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson in order to provide for the planning for, implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person, administered through the use of off the shelf computer hardware and a combination of off the shelf and custom computer software, motivated by a desire to secure retirement benefits for workers and provide professional investment advice to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

**Re. Claim 71**, Tarbox discloses a server adapted to receive from at least the remote client computer information related to a person-specified benefit desired for the at least first guaranteed retirement benefit, and to process the benefit index information towards implementing the retirement benefit program (See the rejections of claims 55 and 80). None of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose the person specifying a life-dependent benefit nor an indexed benefit, such as an index selected from the group consisting of (i) a level index, (ii) a COLA (CPI-linked) index, and (iii) a market-linked index. However, such indexes have been well known in art. For example, Social Security benefits are indexed for the COLA index, and have also been available as part of annuities and other insurance industry products. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the teachings of Tarbox with the knowledge of the ordinary practitioner to present retirement benefit programs containing benefit indexation, motivated by a desire to provide professional investment advice to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

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**Re. Claim 72,** Tarbox discloses a server adapted to receive from at least the remote client computer information related to a person-specified benefit desired for the at least first guaranteed retirement benefit, and to process the benefit index information towards implementing the retirement benefit program (See the rejections of claims 55 and 80). None of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose the person specifying a payment collar, the person-specified benefit collar corresponding to a percentage range below and above a benefit payment in order to dampen the volatility in income payments received. However, such collars have been well known in the financial arts. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the teachings of Tarbox with the knowledge of the ordinary practitioner to present retirement benefit programs containing benefit collars, motivated by a desire to provide professional investment advice to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

**Re. Claim 73,** Tarbox discloses a server adapted to receive from at least the remote client computer information related to a person-specified benefit desired for the at least first guaranteed retirement benefit and to process the benefit index information towards implementing the retirement benefit program (See the rejections of claims 55 and 80). None of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose the person specifying a stop/loss indication, the person-specified stop/loss indication corresponding to a person-defined threshold level the server employs to indicate to the person during the allocation period the asset vehicle has reached at least one of: (i) a desired high market value, (ii) a desired low market value. However, stop/loss arrangements have been well known in the financial arts. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the teachings of Tarbox with the knowledge of the ordinary practitioner to present retirement benefit programs containing stop/loss arrangements for market based financial assets, motivated by a desire to provide professional investment advice to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

**Re. Claim 74,** Tarbox discloses an integrated computer system wherein the current value of the at least first guaranteed retirement benefit as of the current date and for



each of future intervals of the allocation period includes actuarial valuations of the at least first guarantee benefit purchased. None of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a life-dependent retirement benefit. However, see the rejections of claims 55 and 80 regarding actuarial valuations of the at least first guarantee life-dependent benefit purchased.

**Re. Claims 70 & 90,** Tarbox discloses a system and method comprising querying at least the remote client computer to provide information of the risk tolerance of the person (Col. 2, ll. 39-40, 43). The processing of at least one response of the person provides to querying towards implementing the retirement benefit program is discussed above in the rejection of claims 80-89.

**Re. Claims 76 & 92,** Tarbox discloses a system and method wherein the remote client computer includes a remote computer operated by the client person (Col. 6, ll. 53-65).

**Re. Claims 77 & 93,** Tarbox discloses a system and method wherein the remote client computer is operatively connected to at least one computing device operated by the person (Col. 6, ll. 50-51).

**3. Claims 56 and 81 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson as applied to claims 55, 59, 68, 69, 75, 79 and 80 above, and further in view of Tyler (US Patent 5,523,942).

**Re. Claims 56 & 81,** none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a system and method wherein the at least one change to the retirement benefit program specified by the person includes at least one of: (i) a change in a length of the allocation period, (ii) one or more changes in the at least first guaranteed life-dependent retirement benefit. (iii) one or more modifications of the allocation period, (iv) one or more modifications of the allocation of funds corresponding to the at least one asset vehicle, (v) one or more modifications of the at least first guaranteed life-dependent retirement benefit, and (vi) one or more personal choices specified by the person related to the retirement benefit program. However, the allocation period of Applicant's invention concerns conversion of financial assets and a

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related period of time. Tyler teaches one or more changes in the at least first guaranteed life-dependent retirement benefit. (Col. 2, ll. 44-55). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and Tyler in order to provide for the planning for, implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person, motivated by a desire to respond to a client's request for information on a previously sold product insurance industry product, which includes life dependent annuity products, or projecting the impact on policy values if certain product assumptions are modified, such as a shortening or expansion of a conversion period (Tyler, Col. 2, ll. 44-55).

**4. Claims 57 and 82 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson as applied to claims 55, 59, 68, 69, 75, 79 and 80 above, and further in view of Jones and Cooperstein (US Patent 5,893,071).

**Re. Claims 57 & 82**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a system and method comprising calculating a plurality of benefit payments to the person during and after the allocation period and executing payment of each of the plurality of benefit payments to the person, each benefit payment being made to the person during the allocation period comprising a sum of a portion of funds from the at least one asset vehicle and one or more payments from the at least one guaranteed life-dependent retirement benefit purchased, and each benefit payment being made to the person after expiration of the allocation period comprising payments from the at least one retirement benefit purchased. However, Jones and Cooperstein disclose calculating benefit payments corresponding to said selected retirement benefits for said client during and after said conversion period, wherein said benefit payments during said conversion period are made from said at

least one asset vehicle and said purchased benefits, and said benefit payments after said conversion period are provided by said purchased benefits (Jones - Abstract, lines 1-4 - simulation; Cooperstein - Col. 3, lines 30-40 - annuity). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and the disclosures of Jones and Cooperstein in order to provide payments to a beneficiary during an allocated asset conversion program period. The motivation for this combination would have been to provide more disclosure of the workings of the purchased benefit plans so that customers can appreciate and act on the critical components of such contracts (Cooperstein, Col. 3, ll. 6-11).

**5. Claims 58, 61-67, 83, 85-89 & 91 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson as applied to claims 55, 59, 68, 69, 75, 79 and 80 above, and further in view of Jones (US Patent 6,021,397).

**Re. Claims 58 & 83**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a system and method wherein the at least relevant portions of financial and statistical information related to future market performance, inflation and interest rates include at least one of: (i) historical market returns, (ii) simulated market returns, (iii) current interest rates, (iv) simulated interest rates, (v) current cost of living indices, and (vi) simulated cost of living indices, respectively, and wherein the server is further adapted to employ additional information including at least one or more person-specified personal choices related to the retirement benefit program to calculate the future total current values and the future target benefit payments. However, Jones discloses the use of historical economic factors such as general economic factors such as inflation, historical dividend growth rates, interest rates and other variables as a basis for projecting future financial performance (Col. 12, ll. 60-64). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and the disclosures of

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Jones to provide relevant portions of financial and statistical information related to future market performance, inflation and interest rates. The motivation for this combination would have been to employ advanced financial techniques to provide financial advice to individuals on how to reach specific financial goals (Jones, Col. 2, ll. 13-16).

**Re. Claims 61 & 85**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a system and method comprising simulating a plurality of sample retirement benefit programs in accordance with at least one of: (i) one or more choices specified by the person and (ii) one or more modifications to a sample retirement benefit program specified by the person, each sample retirement benefit program including simulated results of allocations of portions of funds corresponding to the at least one asset vehicle towards gradually purchasing one or more fractions of at least one of a plurality of available guaranteed life-dependent retirement benefits at one or more selected intervals of the at least one of a plurality of available allocation periods, and providing the simulated results to at least the remote client computer. However, Jones discloses the use of simulation to facilitate financial product selection (Col. 2, lines 49-51). It would have been obvious to the ordinary practitioner that selection involves the evaluation of one or more possibilities. The detailed components of these options are discussed above in the rejections of claims 80-83. Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and the disclosures of Jones to provide a method comprising simulating a plurality of sample retirement benefit programs in accordance with one or more choices specified by the person and/or presented by the practitioner, presented to the client's computer. The motivation for this combination would have been to employ advanced financial techniques to provide financial advice to individuals on how to reach specific financial goals (Jones, Col. 2, ll. 13-16).

**Re. Claims 62, 65 & 86**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a system and method wherein the

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simulated results include simulated total current values and simulated target benefit payment values for the one or more selected intervals of the at least one available allocation period, and further comprising calculating statistically simulated purchase prices by employing information related to simulated interest rates and at least one of: (i) information related to projected morbidity of the person; and (ii) information related to projected longevity of the person. However, the application of simulation, the use of the simulated projection of interest rates and the development of what-if scenarios regarding the financial variables of conversion options are discussed in the rejection of claims 80-85 above. Further, information regarding the projected morbidity and longevity of a person were well known kinds of data readily available to the ordinary practitioner and even the general public. For example, Jones discloses the use of mortality information which is provided commonly available actuarial tables (Col. 11, ll. 49-57). Therefore, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox with the knowledge of the ordinary practitioner and the disclosure of Jones in order to provide simulated data for the planning for, implementing and administering a retirement benefit program including at least one guaranteed, life-dependent retirement benefit to provide a guaranteed lifetime income to at least one person using at least one or more personal financial assets owned by the person, motivated by a desire to provide professional investment advice to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

**Re. Claims 63 & 87**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa and Henderson explicitly disclose a system and method wherein calculating the simulated results includes calculating the simulated results as a function of at least one of: (i) simulated market performance information, (ii) simulated interest rates, and (iii) simulated inflation rates, and further comprising statistically calculating at least one probability of achieving the at least one available guaranteed life-dependent retirement benefit at an expiration of the at least one available allocation period. However, Jones discloses the use of simulation to determine the probability of attaining a certain investment goal (Col. 11, ll. 10-12). The analytical, simulation based use of market

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performance information, market performance information, interest rates, and inflation rates are discussed in the rejection of claims 80-86 above. Statistically calculating at least one probability of achieving the at least one available guaranteed life-dependent retirement benefit at an expiration of the at least one available allocation period is but one obvious calculation of a probability of occurrence of an event through a simulation. It would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox with the knowledge of the ordinary practitioner and the disclosures of Jones to provide a method comprising calculating the simulated results includes calculating the simulated results as a function of at least one of: (i) simulated market performance information, (ii) simulated interest rates, and (iii) simulated inflation rates, and further comprising statistically calculating at least one probability of achieving the at least one available guaranteed life-dependent retirement benefit at an expiration of the at least one available allocation period. The motivation for this combination would have been to employ advanced financial techniques to provide financial advice to individuals on how to reach specific financial goals (Jones, Col. 2, ll. 13-16).

**Re. Claims 67 & 88**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson nor Jones explicitly disclose a system and method comprising querying at least the remote client computer to provide information related to at least one of: (i) information related to acceptance by the person of the one or more modifications; (ii) information related to rejection by the person of the one or more modifications, and (iii) information related to one or more modifications to the sample benefit program specified by the person, and further comprising recalculating the simulated results in accordance with the one or more modifications. However, querying a client for a response or decision regarding decision information previously presented or transmitted to the client in any manner, including electronically, was a long standing practice prior to the electronic computer age and during the electronic computer and electronic network communications age. Thus, this would have been seen as an obvious step by the ordinary practitioner any time that the client had not responded by a certain date and/or time. Therefore, it would have been obvious to the ordinary

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practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and Jones in order to move the decision making process along once a practitioner has been engaged in a process to reposition a client's retirement investment portfolio, motivated by a desire to provide professional investment advice to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

**Re. Claim 89**, Tarbox discloses a method comprising altering the allocation of funds in accordance with the simulated results in response to receiving information related to acceptance by the person of the one or more modifications. The execution of a client's allocation decisions is discussed in the rejection of claim 80.

**Re. Claim 91**, none of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson nor Jones explicitly disclose the use of actuarial valuations. However, Jones discloses the use of actuarial valuations (Col. 11, ll. 49-57). The calculation of conversion allocation related data is covered in the rejections of claims 80-90 above. It would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and the disclosures of Jones to provide a method which includes performing actuarial valuations of the at least first guaranteed life-dependent retirement benefit purchased. The motivation for this combination would have been to employ advanced financial techniques to provide financial advice to individuals on how to reach specific financial goals (Jones, Col. 2, ll. 13-16).

**6. Claims 60 and 84 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Tarbox, Ryan, King, El-Kadi, Golden, Schirripa and Henderson as applied to claims 55, 59, 68, 69, 75, 79 and 80 above, and further in view of Barron's.

**Re. Claims 60 & 84**, Tarbox discloses a system and method comprising processing information received from the least one remote client computer (Online interaction between the client and the advisor - Col. 6, ll. 55-65). None of Tarbox, Ryan, King, El-Kadi, Golden, Schirripa or Henderson explicitly disclose acceleration of the allocation period and accelerating the allocation period by allocating at least a portion of funds

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corresponding to the total current value towards purchasing a remainder of the at least first guaranteed life-dependent retirement benefit. However, Barron's Dictionary of Insurance Terms demonstrates that acceleration of benefits is a long standing tool in the insurance segment of the financial services industry (Acceleration - page 2). It would have been obvious to the ordinary practitioner to have been able to execute the acceleration of the allocation period and accelerating the allocation period by allocating at least a portion of funds corresponding to the total current value towards purchasing a remainder of the at least first guaranteed life-dependent retirement benefit.

Consequently, it would have been obvious to the ordinary practitioner of the art at the time of Applicant's invention to have combined the disclosures of Tarbox, Ryan, Barron's, King, El-Kadi, Golden, Schirripa, Henderson and the disclosures of Barron's to accelerate an investment assets conversion allocation program. The motivation for this combination would have been to provide professional investment advice and service to benefit plan prospects and participants (Tarbox, Col. 1, ll. 13-14).

### ***Response to Arguments***

7. Applicant's arguments submitted on October 13, 2005 with respect to claims 55-93 have been considered but are moot in view of the new ground(s) of rejection.

**The Declaration** filed February 2, 2007 by Mr. Jerome Golden under 37 C.F.R. 1.132 is insufficient to overcome the rejections of claims 55-93 as set forth in the last office action and above because:

- a) It includes statements which amount to the affirmation that the claimed subject matter functions as it was intended to function. This is not relevant to the issue of non-obviousness of the claimed subject matter and provides no objective evidence thereof. See MPEP 716.
- b) The Declaration only refers to the invention, not the claims. See MPEP 716. It states that the claimed subject matter solved a problem that was long standing in the art. However, there is no showing that others of ordinary skill in the art were working on the problem and if so, for how long. In addition, there is no evidence that if persons skilled



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in the art who were presumably working on the problem knew of the teachings of the above cited references, they would still be unable to solve the problem. See MPEP 716.04.

c) In view of the foregoing, when all the evidence is considered, the totality of the rebuttal evidence of nonobviousness fails to outweigh the evidence of obviousness.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Richard E. Chilcot, can be reached on (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks, Washington D.C. 20231*  
or (571)273-8300 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

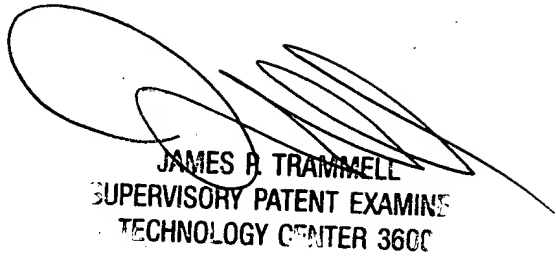
SEC

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April 16, 2007



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